

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 versus

5 JOAQUÍN ARCHIVALDO GUZMÁN LOERA,

6 Defendant.

09 CR 466 (BMC)

United States Courthouse
Brooklyn, New York

February 5, 2019

9:30 a. m.

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8 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
9 BEFORE THE HONORABLE BRIAN M. COGAN
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES

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Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

Lisa Schmid, CCR, RMR
Official Court Reporter

PROCEEDINGS

1 (In open court, outside the presence of the jury at 1:40 p.m.)

2 THE CLERK: All rise.

3 THE COURT: Be seated, please.

4 Court Exhibit Number 6 is a note from the jury, asking
5 for four things: First, can we please hear the phone call
6 601F-BT, page two, regarding quote, ice, unquote; second,
7 requesting Rey Zambada's testimony regarding Chespiro; third,
8 requesting testimony for Alex Cifuentes Villa; fourth,
9 requesting testimony for Jorge Cifuentes Villa.

10 Now, I assume the parties can agree on the phone call
11 they're looking for, even if they didn't get the number right,
12 because I think we know what that is. And we can bring them in
13 here to play that.

14 Rey Zambada's testimony, I think I know what they're
15 talking about, but I'm going to leave it to the parties to
16 agree on what should be given to the jury.

17 And then, the entirety, it appears, of the testimony
18 for the two Cifuentes Villas. Now, the only thing with that
19 is, it is usually my practice when the jury wants a readback to
20 give them a readback; however, if they really want the
21 testimony from those two witnesses, we're probably talking
22 about four to five days of readback.

23 MR. LICHTMAN: Judge, I don't think that's the case
24 because it was done with an interpreter. So if it's a full day
25 of testimony, it's really half a day.

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1 THE COURT: Well, I'll tell you what. You all put it
2 together. Let me look at the volume. We'll then make an
3 estimate on whether it will take more than -- really, I won't
4 keep them here re-listening to testimony for more than an hour.
5 I'm probably going to give it to them if it takes more than
6 that, but let's see how much it is and we'll make that
7 determination once you have it compiled.

8 MR. LICHTMAN: Thank you.

9 THE COURT: Let Ms. Clarke know as soon as you get
10 everything together. Thank you.

11 (Recess.)

12 (In open court, outside the presence of the jury at 3:15 p. m.)

13 THE CLERK: All rise.

14 THE COURT: Okay. Be seated, please.

15 This is taking too long. I'm not sure why it took so
16 long. The recording, we know what the recording is. That
17 should take five minutes. The first part of the testimony they
18 want, that's a short excerpt. That should take five minutes.
19 And then the long excerpts are for the entire testimony. So
20 you just start where the witness starts testifying and end
21 where he stops. Why are we an hour later?

22 MS. PARLOVECCHIO: Your Honor, the first two things
23 that were requested are ready to go. It's the fact that the
24 entire testimony of Jorge Cifuentes, entirety of Alex
25 Cifuentes' testimony is the voluminous and also the objections

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1 sustained all have to be redacted, as well as the sidebars.

2 THE COURT: Okay.

3 MS. PARLOVECCHIO: Actually, to help expedite that, if
4 the Courts is amenable, if you could go back to the jury and
5 see if they have any particular area of testimony from the
6 Cifuentes that they're looking for, that might help expedite
7 the process.

8 THE COURT: Any objection to that?

9 MR. LICHTMAN: Yes.

10 MR. BALAREZO: Yes.

11 MR. LICHTMAN: Judge, they were very careful to note
12 which part of Rey Zambada's testimony they wanted. So they're
13 aware that they can discern and ask you for a piece.

14 They asked for the entirety of the readbacks to two
15 witnesses. That's what they want. That's what they should
16 get. We shouldn't be reading the tea leaves and deciding
17 what --

18 THE COURT: All right. All right. That's okay, Mr.
19 Lichtman. That's fine.

20 MS. PARLOVECCHIO: Your Honor, they did -- we did send
21 an answer back to the jury yesterday saying, if you have
22 questions about testimony concerning Methamphetamines, you're
23 welcome to ask for that evidence.

24 The first two items clearly relate to Methamphetamines
25 or ice. Both Cifuentes brothers had substantial amounts of

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1 testimony about Methamphetamines, place and production.

2 THE COURT: I'm not going to read the jury's mind, but
3 I will say to them -- the only thing I'll say to them is, we're
4 trying to put that together. That's an awful lot of testimony.
5 You're going to have to be patient, and then they can have it.

6 But I'll tell you, Mr. Lichtman, I was thinking about
7 your comments: Well, it took five days because there were
8 translators. Well, fine. So we cut it down to three days.
9 I'm not going to keep them sitting here for three days,
10 listening.

11 MR. LICHTMAN: I understand, Judge. I appreciate that
12 and certainly, this is within your very broad discretion on
13 whether you send back transcripts or read it. If that's your
14 determination, that's your determination.

15 All I would ask is that before you send the
16 transcripts back, that you give them a cautionary warning. The
17 reason why you are sending back the transcripts as opposed to
18 reading it back in court, and also to tell them that they
19 should be careful to take the transcript -- they asked for the
20 entire transcripts -- to take them as a whole, as opposed to
21 putting undue emphasize on perhaps --

22 THE COURT: I'll certainly give that instruction.

23 In the meantime, we have got another note that makes
24 the issue worse.

25 Court Exhibit 8: "Can we please get the testimony for

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1 Juan Aguayo? The testimony. All the testimony."

2 MS. PARLOVECCHIO: We can get that fairly quickly,
3 Your Honor. It wasn't a very lengthy witness.

4 THE COURT: Oh, okay.

5 MS. PARLOVECCHIO: So we can work on that right now.

6 THE COURT: All right. Well, let's have them in, so
7 they know we're doing something for them. We're ready to go
8 with the recording and with the Rey Zambada testimony, right?

9 MS. PARLOVECCHIO: Yes.

10 THE COURT: Okay. Let's do that.

11 (Jury enters.)

12 THE COURT: All right. Everyone be seated.

13 We have your notes, ladies and gentlemen. The first
14 thing we will do is play for you the call, phone call 601F-BT
15 page two regarding ice that you have asked for. Let's play
16 that.

17 (Audio played in open court.)

18 THE COURT: All right. That completes that call,
19 ladies and gentlemen.

20 You have next asked for the witness, Rey Zambada's,
21 testimony regarding Chespiro. The court reporters are going to
22 read that back to you now.

23 (Testimony excerpt of Jesus Reynaldo Zambada Garcia read.)

24 THE COURT: All right. That completes the reading of
25 that portion, ladies and gentlemen.

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1 Now, you have additionally asked for the entire
2 testimony of Alex Cifuentes Villa, Jorge Cifuentes Villa and
3 Juan Aguayo.

4 Because you have asked for the entire testimony,
5 that's going to take us some time to get together, and while we
6 get just read you this excerpt, that's so voluminous, that if
7 we were going to read it to you, we would have you back out
8 here for days again listening to testimony, and we don't want
9 to do that.

10 So what I'm going to do is once we get that testimony
11 together, we will send it back into the jury room with you, in
12 writing, so you'll have it in writing; however, just because
13 it's in writing doesn't mean that you should give it anymore
14 weight than any of the oral testimony that you recall. It just
15 happens to be in writing to save us time, but you have to think
16 of it in the context of all the testimony and don't do anything
17 that would isolate that testimony just because you have it in
18 writing. Everybody understand that?

19 JURORS: (All answer affirmatively.)

20 THE COURT: All right. And then lastly, we have your
21 note requesting to go home at 4:15, and that's okay if that's
22 what you want to do.

23 I will remind you now, so I don't have to bring you
24 back into the courtroom at 4:15, not to discuss this case with
25 anybody, not to look at any media coverage of the case, not to

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1 do any research on the case, not to post anything on the case,
2 and not to talk about the case once you leave that jury room,
3 until you're all back in that jury room, all 12 of you,
4 tomorrow morning, and then you may start your deliberations.

5 So I won't be seeing you again tonight. Have a very
6 good evening. We'll talk to you tomorrow.

7 (Jury exits.)

8 THE COURT: With the parties' permission, since the
9 alternates were not in for this, I'm going to have Ms. Clarke
10 remind them all, so they can't talk about the case when they
11 leave here. They really can't talk about the case at all. I'm
12 not sure they haven't been here today while they have been
13 entertaining themselves, but no one thinks I have to bring
14 everybody back in here again, do they?

15 MR. LICHTMAN: No, Judge.

16 MS. PARLOVECCHIO: No, Your Honor.

17 THE COURT: All right. Talk to you tomorrow.

18 MR. LICHTMAN: Thank you.

19 (Trial adjourned to February 6, 2019, at 9:30 a. m.)
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PROCEEDINGS

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Court Exhibit 6 7067
Court Exhibit 8 7070